

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN-PERRY BEN BIRDSALL-PERRY,)	
)	
Petitioner,)	
)	
v.)	CIV-06-1197-R
)	
CLINT FRIEL,)	
)	
Respondent.)	

ORDER

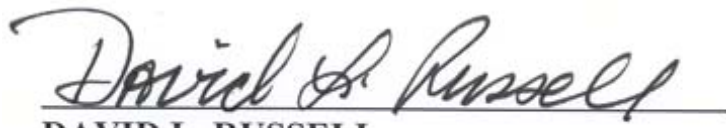
Before the Court are the Report and Recommendation of United States Magistrate Judge Robert E. Bacharach entered November 16, 2006 [Doc. No. 10] and Petitioner's Objection filed December 4, 2006 [Doc. No. 13]. The Magistrate Judge concluded that because the Court does not have jurisdiction over the Defendant custodian, this case should be transferred to the District of Utah in the interest of justice. Petitioner's Objection is not entirely legible, comprehensible or relevant. However, Petitioner asserts that the Magistrate Judge herein is either ignorant or unqualified and that the transfer of this case to the District of Utah will only result in injustice inasmuch as that court has already demonstrated its prejudice against Petitioner.

The Magistrate Judge correctly concluded that this Court is without jurisdiction over Respondent. This Court is without jurisdiction over this case. *See* 28 U.S.C. § 2241(d); *Story v. Collins*, 920 F.2d 1247, 1250-51 (10th Cir. 1991); *Smith v. Boone*, 194 F.3d 1321,

1999 WL 682915 (10th Cir. Sept. 2, 1999) (No. 99-6041); *Carmona v. Andrews*, 357 F.3d 535 (5th Cir. 2004).

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge [Doc. No. 10] is ADOPTED in its entirety and the petition for a writ of habeas corpus herein pursuant to 28 U.S.C. § 2254 is, in the interest of justice, TRANSFERRED to the District of Utah.

It is so ordered this 7th day of December, 2006.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE